

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY HARDY,

Plaintiff,

v.

CITY RESCUE MISSION OF
LANSING, et al.,

Defendants.

Case No. 1:18-cv-628

HON. JANET T. NEFF

OPINION AND ORDER

As set forth in the Report and Recommendation, Plaintiff initiated this action alleging numerous claims against Defendant City Rescue Mission and several individuals, including constitutional claims, statutory claims, and American with Disabilities Act (ADA) claims (R&R, ECF No. 27). The Magistrate Judge conducted an initial review of the complaint pursuant to 28 U.S.C. § 1915(e)(2), and recommended that the action be dismissed because Plaintiff had failed to establish a viable claim for relief under any of the cited authority (ECF No. 27 at PageID.179).

The matter is presently before the Court on Plaintiff's Objections to the Report and Recommendation (ECF No. 30). Plaintiff also seeks the appointment of counsel. Plaintiff presents no discernable valid objection to the Report and Recommendation. Plaintiff cites to the liberality afforded to construction of pro se pleadings and favoring the amendment of pleadings. However, as Plaintiff acknowledges, he has had repeated opportunity to amend his complaint (*see* ECF No. 30 at PageID.195; Order, ECF No. 25). The Magistrate Judge properly considered the nature of Plaintiff's claims, and the facts and circumstances alleged under the appropriate legal standards

and determined that Plaintiff's operative amended complaint failed to state any viable claims. Plaintiff's objection that he is being denied the opportunity to amend after the Court's determination of the complaint's deficiencies is unavailing. Plaintiff points to no circumstances, factual or legal, that save his claims and support further amendments. Plaintiff's request to have counsel appointed was also previously considered and denied by the Magistrate Judge (ECF Nos. 17, 20). Nothing raised by Plaintiff in his objections warrants a different result.

Therefore, the Court denies the objections and adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

For the above reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3), as recommended by the Magistrate Judge, that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Accordingly:

IT IS HEREBY ORDERED that the Objection (ECF No. 30) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 27) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Amended Complaint (ECF No. 26) is DISMISSED for failure to state a claim.

IT IS FURTHER ORDERED that Plaintiff's Second Motion for Substitution of Parties based on the death of City Outreach owner/operator Mark Bozzo and the purchase of part or all of the "estate City Outreach" (ECF No. 28) is DENIED as moot.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: July 30, 2019

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge